



Bulletin

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Canada Small Business Financing Program

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Security containing an after-acquired clause

(Reference: Item 7.3, Section A CSBF Program Guidelines)

When lenders have taken security for a CSBFA/SBLA loan containing an after acquired property clause, lenders may sometimes grant a postponement of the CSBF/SBLA security position. Here are two situations.

1. Postponement for a newly acquired asset: In the event a lender grants a postponement of the CSBFA/SBLA security ranking on the asset being financed under a conventional loan, **the Administration's authorization is not required.**

Example: A borrower seeks a conventional loan to purchase equipment costing \$4,000.00. The lender can grant a postponement of security ranking on the asset to be financed by the conventional loan, i.e., the equipment costing \$4,000.00.

2. Postponement for receivables and inventory: When a lender grants a postponement of the SBLA security for receivables and inventory held as additional security for a SBLA loan, **the lender must continue to submit written requests to the Administration for authorization prior to postponing the first charge.** (This does not apply for CSBFA loans since the new legislation permits a lender to grant such postponement without the Administration's approval).

Example: A borrower is prevented from obtaining a line of credit for working capital because a first charge created by a General Security Agreement (GSA) is held for the SBLA loan, which GSA includes

security over accounts receivable and inventory. The lender can grant a postponement of security on the receivables and inventory for security for the line of credit if it has requested and received authorization from the Administration.

Under both situations, and at all times, lenders should apply the same care and procedure as they do in their normal daily course of business. With this in mind, if the practice of the lender, before granting a postponement on their security position, is that certain criteria must be met, (i.e., ensure that the primary first charge over the assets financed are not adversely affected...) then these same conditions should apply to SBLA/CSBFA loans.

All postponements must be registered within a reasonable time period beginning from the date of the first disbursement of the conventional loan.

Lenders have to keep these details properly documented in the borrower's file. Lenders must be ready to provide a full explanation should a claim for loss be submitted in respect of the loan.

Claim for loss Form - Box 9

The Administration has observed that many lenders identify the purchase of equipment in the loan class of "**Purchase of/Improvements to real property or immovables (owner)**". Only purchases of or improvements made to immovable assets by the owner should be included in this category. Purchase of equipment or improvement to equipment should be identified in the loan class "**Equipment**". Please refer to Item 4, Section A of the Guidelines for a brief description of the four classes of loans.

Forms

The Administration has been receiving many requests from branches for forms that are used in the delivery of the program. We would appreciate it if you could remind your branches that they should either contact their head office to obtain those forms or download them from our Web Site at: <http://strategis.ic.gc.ca/csbfa>.

Is this bulletin useful?

We would like to know what you think of our bulletins. The purpose of these bulletins was to provide general information on our programs. The topics covered come from questions raised by you. Take a minute and tell us:

- Do you find the bulletins useful?
- Do you distribute them to your branches?
- Do you feel the bulletins are still required?

Your response by Fax, by May 10, 2000 will assist us in better serving you.

Small Business Loans Administration

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